

The Claimant's PEDIGREE

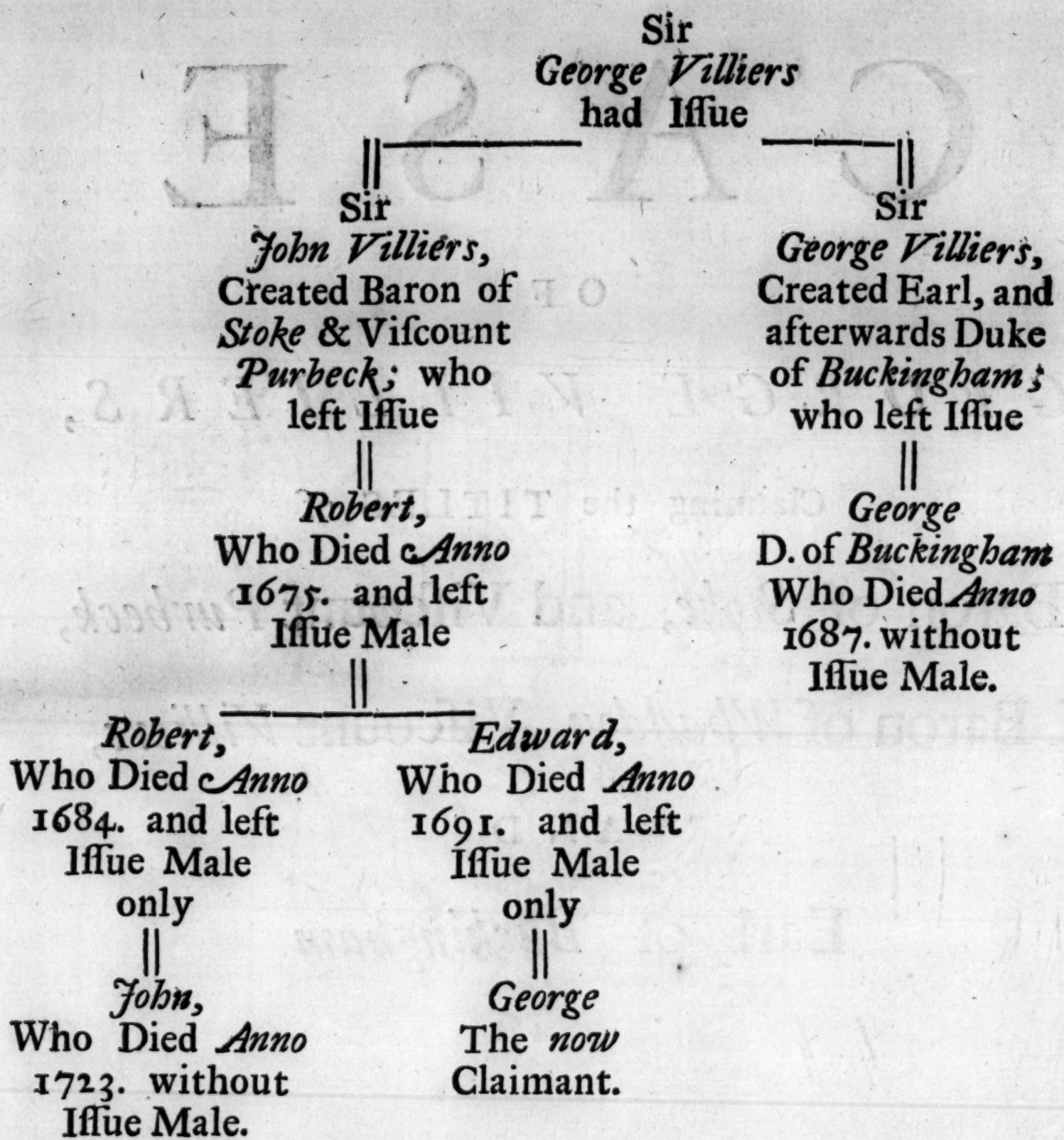
THE
CASE

OF
GEORGE VILLIERS,

Claiming the TITLES of
Baron of *Stoke*, and Viscount *Purbeck*,
Baron of *Whaddon*, Viscount *Villiers*,
AND
Earl of *Buckingham*.



The Claimant's *PEDIGREE*.



The CASE of GEORGE VILLIERS.

Aug. 27.
14 Jac. I.

THE King by Letters Patents created Sir George Villiers (the Son) Baron of *Whaddon* in the County of *Bucks* and Viscount *Villiers*. *To hold the said Titles to him and the Heirs Male of his Body.*

Jan. 5.
14 Jac. I.

The King by Letters Patents created the said Sir George Villiers Earl of *Buckingham*. *To hold the said Titles to him and the Heirs Male of his Body.*

Mar. 14.
14 Jac. I.

The King by Letters Patents (after a Recital of the said Letters Patents of *August 27.* and *Jan. 5.*) created Sir *John Villiers*, Brother of the said George Earl of *Buckingham* (after the Death of the said George Earl of *Buckingham*, without Heirs Male of his Body) Baron of *Whaddon*, Viscount *Villiers* and Earl of *Buckingham*. *To hold the said Titles to him and the Heirs Male of his Body.*

June 19.
17 Jac. I.

The King by Letters Patents created the said Sir *John Villiers* Baron of *Stoke* and Viscount *Purbeck*. *To hold the said Titles to him and the Heirs Male of his Body.*

*By the Journal of the House of Lords
it appears.*

June 15.
1660.

INformation was given to the House of Lords against *Robert*, the Claimant's Grand-Father, by the Title of Viscount *Purbeck*, for *Treasonable* Words spoken by him *Anno 1649*. Whereupon it was order'd by the House of Lords, That the Gentleman-Usher of the Black-Rod should take the Body of the said Viscount *Purbeck* into Custody, and bring him to the House; to answer the said Information. Upon which he was taken into Custody; and *June 16th Anno 1660.* he was brought

to the Bar of the House of Lords, and after the Information was read against him; he insisted, *He had no Right to be a Peer, because he could find no Patent for such Honour, nor any Writt, and that he had levied a Fine to the King of that Honour*; and also insisted, *He was a Member of the then House of Commons*, and appeal'd to their Lordships.

June 26.
1660. The Lords referr'd it to the then Attorney-General and King's Council, to make a State of the Fact to the House.

July 16.
1660. The King's Attorney-General and Council reported, *That the said Viscount Purbeck had petition'd his then Majesty, to accept of a Surrender of the Honour of Baron of Stoke and Viscount Purbeck, and of the pretended Titles to him in Remainder, of the Honour of Baron of Whaddon, Viscount Villiers, and Earl of Buckingham, which his Majesty had accepted of*; and in the said Report referr'd to Precedents for surrend'ring Titles of Honour to the King. And the same 16th of July, the House of Lords referr'd the Report of the Attorney-General with the Precedents, to the Lords Committee of Privilege, to hear Council and Witnesses, and to make Report to the House.

July 27.
1660. The Earl of *Pembroke* from the Committee reported their Opinion; That the King's Council should be appointed to bring in a Charge against the Lord Viscount *Purbeck*, or else he should be discharged.

Sept. 10.
1660. It was Order'd, That the Lord Viscount *Purbeck* should be discharged out of Custody, paying his Fees, and giving Security by his own Bond in 10000 Pounds Penalty to the Gentleman-Usher of the Black-Rod, to appear within Ten Days after Notice. And he was discharged on giving such Security.

Nov. 25.
1661. The Lord Viscount *Purbeck* not being in the List of the Lords call'd over that Day; It was referr'd by the Lords in Parliament to the Committee of Privilege to consider, *Whether he was to sit in that House as a Peer or not*.

But it does not appear that any further Proceedings were had therein.

The

Anno
1675.

THE said *Robert* Died, and left Issue Male, only
Robert and *Edward*.

Febr. 6.
1675.

After his Death, *Robert* his eldest Son (*before he came of Age*) Petition'd King *Charles* the Second, as Son and Heir of *Robert*, and Grandson of *John* Viscount *Purbeck*, and Baron of *Stoke*; setting forth, *That his Father had been so ill advised, as to endeavour to cut off those Honours which he had not Power to do*; Therefore pray'd, *He might attend his Majesty in the House of Peers, as others of his Quality under Age do*.

Apr. 22.
1675.

The King referr'd it to his Attorney-General Sir *William Jones*; to consider the Petitioner's Case and Request, and make Report to his Majesty, what he might do therein according to Law.

Apr. 24.
1675.

The Attorney-General reported, *That it was a considerable Question, not as then resolv'd to his Knowledge, Whether a Peer can by Fine barr or extinguish an entail'd Honour*; and offer'd it as his Opinion, *That it would be fit for his Majesty to refer the said Petition to the House of Peers*.

Apr. 28.
1675.

The King referr'd the Petition to the House of Peers then sitting; who were thereby directed to hear, examine and consider the Petitioner's Claim, and judge the same as to their Lordships should seem just and reasonable.

Apr. 30.
1675.

The said Petition and the King's Reference were read in the House of Lords, and meeting with Opposition from the Earl of *Denbigh*, on the Behalf of the *then* Duke of *Buckingham*; It was order'd, *That what Suggestions should be made by way of Answer to the same, should be put into the House in Writing*.

May 5.
1675.

Upon reading the said Petition of the said Earl of *Denbigh*, on the Behalf of the *then* Duke of *Buckingham*, reflecting on the said *Robert* the Petitioner's Father as *illegitimate*, a Copy thereof was order'd to the *then* Claimant.

May 12.
1675.

To which Petition of the said Earl of *Denbigh*, the said Petitioner *Robert* put in an Answer, by the Stile of Lord Viscount *Purbeck*, thereby insisting, *That he was*

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the Son and Heir of *Robert* late Viscount *Purbeck*, who was Son and Heir of *John* Viscount *Purbeck*, by him lawfully begotten on the Body of Lady *Frances* his Wife, and that the said *Robert* the Respondent's Father, was by the said *John* in his Life Time own'd and acknowledg'd for his Son, and born in lawful Matrimony of his said Parents, and as his lawful Son and Heir entituled to several Lands in the County of *Bucks* and elsewhere, which the Respondent's Father, as Son and Heir of the said *John* Viscount *Purbeck* by the Lady *Frances* his Wife, sold to several Purchasers, who have enjoy'd the same accordingly ; Therefore humbly submitted to the Judgment of the Honourable House of Peers, Whether the said Petition should be admitted after the Death of the Respondent's said Father, to call in Question or Debate, whether his said Father was the *legitimate* Son and Heir of *John* Viscount *Purbeck* the Respondent's Grand-father; the Respondent conceiving it without Precedent, That the Honourable House of Peers *should*, or any other Judicature in this Kingdom ever *did*, admit of any such Averment ; it then being above *two and fifty Years* since the Birth of the Respondent's Father: Praying, that the Petition so much reflecting upon his Honour might be dismiss'd.

After several Days appointed by the House of Peers for hearing that *Plea* ; the 3^d of *June* was appointed to hear Council in maintenance of and against the *Plea*, and not upon the Merits of the Cause ; and also what the Duke of *Buckingham* should offer by his Council.

June 3. The Council for the *then* Claimant attended ; but no
1675. Council attending for the Duke of *Buckingham*, upon Debate had by the House as well of and concerning the said Petition, as the said *Plea* ; It was order'd, *That the said Petition of the Earl of Denbigh be, and is hereby dismiss'd the House, and that the Duke of Buckingham shall pay 20 Pounds Cost to the Claimant for his Council's Attendance upon the House in this Cause.*

Nov. 10. The Lords appointed the 24th of the same Month to
1675. consider the Claimant's Petition.

Before which Day the Parliament was prorogued.

The

Mar. 3.
1676. The said *Robert* petition'd the House of Peers to re-assume the Matter of his *former* Petition; and the Earl of *Denbigh* then acquainted the House, that the Matter of the Petition concern'd the Duke of *Buckingham* and himself, and desir'd that they might be heard.

Mar. 7.
1676. The Duke of *Buckingham* desir'd, that no farther Proceedings might be had upon the said Petition, till he was able to attend the House: Whereupon it was order'd, That there should be no further Proceedings till the further Order of the House.

Mar. 14.
1677. The said *Robert*, by the Stile of *Robert* Viscount *Purbeck*, Son and Heir of *Robert*, and Grandson of *John* Viscount *Purbeck* (*being come to twenty one Years of Age*) petition'd the King for his Writt of Summons, and desired that his Claim might be heard. Which Petition by his Majesty's Command was brought into the House of Lords by the Lord Chancellor; and the Lords appointed a Day to hear it; and notice was given to the Duke of *Buckingham* and Earl of *Denbigh*, that they might then be heard what they had to offer in Opposition to the said Claim.

Mar. 21.
1677. After hearing Council on the Behalf of the *then* Claimant to make out his Claim; It was resolv'd to hear the King's Attorney-General upon the *whole* Matter of Fact and Law relating to the said Claim on the 15th of *May*.

Before which Day the Parliament was prorogued to the 23d of *May*.

May 23.
1678. The House appointed 3d of *June* to hear the Attorney-General.

June 3.
1678. Order'd to be *finally* heard in Point of Law and Fact upon the 5th of *June*.

June 5.
1678. The Council for the *then* Claimant and the Duke of *Buckingham* were heard, and also the Attorney-General, and after some consideration was adjourn'd to 7th *June*.

June 7.
1678. The House proceeded in the Debate upon the *whole* Matter; and after some Time spent therein, adjourn'd the further Consideration thereof to the *Wednesday* following; at which Time all the Judges (except the two Chief Justices and Chief Baron) were appointed to be present, and order'd that the Attorney-General should in

the mean time bring to the House a List of such Precedents as he urged before their Lordships; and that the Attorney-General be present at the said Adjournment.

June 12.
1678. The Debate was further adjourn'd to 15th of the same Month; at which Time the Clerk of the Petty-Bag, and such other Clerks or their Deputies, were required to attend with their Books of Entry of Patents, in or about the 17th Year of King *James*; and that the Judges and Attorney-General should be present.

June 15.
1678. The House resumed the Debate, and adjourn'd the same to the *Tuesday* following upon the *whole* Matter; and the Judges and the Attorney-General were order'd to be then present.

June 18.
1678. The House took into Consideration the *whole* Matter; and upon a long Debate, and after hearing his Majesty's Attorney-General, their Lordships were *Unanimously* of Opinion, and resolv'd and adjudg'd, *That no Fine then levied, or at any time hereafter to be levied to the King, could barr a Title of Honour, or the Right of any Person claiming such Title under him that levied, or shall levy such a Fine.* And the further Debate was appointed to be resumed on the *Thursday* following.

June 20.
1678. The House proceeded in the Debate of the Case of the Petitioner; and after a long time spent therein, a Question being propos'd, *Whether the Petitioner had Right by Law to be admitted according to his Claim*; and the *previous* Question being put; It was resolv'd in the *Negative*.

Then the House resolv'd to Petition the King, *To give leave that a Bill might be brought in, To disable the Petitioner to claim the Titles of Baron of Stoke, and Viscount Purbeck.*

Whereupon the *Protest* following was made.

We whose Names are underwritten do accordingly Protest against the said *Resolution* for these Reasons.

1. The Lords being in Judgment as the Highest Court in *England*, in a Case referr'd to them by his Majesty (and where they are the only proper Judges) concern-
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ing the Right of Nobility, claim'd by a Subject *that is under no Forfeiture*, and wherein their Lordships had in part given Judgment before, *That he was not, nor could be barr'd by a Fine and Surrender of his Ancestor*; It was, as we humbly conceive, *against common Right and Justice, and the Orders of the House, not to put the Question propounded for determining the Right.*

II. *The said Claimant's Right* (the Barr of the Fine of his Ancestor being removed) *did both at the Hearing at the Bar, and Debate in the House, appear to us clear in Fact and Law, and above all Objections.*

III. His Right was acknowledg'd even by *Those* Lords; who therefore opposed the putting the *main Question*, and carried the *previous Question*, *That it should not be put*; because in Justice (*if it had been put*) it must inevitably have been carried in the *affirmative*, and his Right thereby allow'd.

IV. By the putting and carrying the third Question, *Concerning Leave to bring in a Bill to barr him*, his Right to the said Title is confess'd; For he cannot be *barr'd* of any thing which he hath not a Right to; And this renders the Proceedings in this Cause *contradictory and inconsistent.*

V. *The Petitioning the King to give leave for such a Bill to be brought in*, is to assist one Subject (*viz. the Duke of Buckingham*) against another in Point of Right, wherein Judges ought to be indifferent and impartial.

VI. This Way of proceeding is *unprecedented, against the Law and common Right*, as we humbly conceive, after Verdicts and Judgments in inferior Courts upon Title of Lands, which have long been in peace and vested in the Claimer by *Descent*, without Writt of Error brought or Appeal, *to suffer the same to be taken or drawn into Question by a Bill.*

VII. The Way by *Bill* in Case of Nobility, is to admit the Commons with us into Judicature of Peers.

VIII. It is to make his Majesty a Party in a private Cause against *a clear and legal Right*, to anticipate and pre-engage his Judgment in a Cause carried upon a great Division and Difference of Opinion in the House, and

forestall his Majesty's royal Power and Prerogative, which ought to be free to Assent or Dissent to Bills, when they shall be tender'd to him by both Houses.

IX. After so many Years Delay, *To give no answer to his Majesty's Reference, nor Judgment in the Claimer's Cause*, is a Way in which the Kings of this Realm have not been heretofore treated, nor the Subjects dealt with.

X. We conceive this Course in the *Arbitraryness* of it against Rules and Judgments of Law, to be derogatory from the Justice of this House, of evil Example, and of dangerous Consequence both to Peers and Commoners.

Oxford,		Danby,		Culpeper,
Anglesey,		Hunsdon,		Lawar.
Northampton,				

June 26.
1678. A Draught of a Petition to his Majesty, *To give leave that a Bill might be brought to disable the Petitioner to claim the Titles of Baron of Stoke, and Viscount Purbeck*, was order'd to be taken into Consideration the Day following.

July 9.
1678. The *Petition* was read and amended; and it was resolv'd, *That it should be presented to the King*. Which was done accordingly.

Dissentient, *Anglesey, Northampton*, for these Reasons.

I. That it is a Transition from our Judicature in a Case of Nobility (wherein the Lords are the proper and sole Judges) to the Exercise of Legislature, wherein the Commons have equal Share with us, and admits them Judges of Peerage: Which I conceive ought not to be, if he be a Peer (*as seems imply'd by proposing a Law to barr his Title*) and there is no need of a Law, if he be no Peer.

II. If a *Bill* comes in, the Cause must be heard again, and then Judgment ought to be given; which (if against him) the Commons must credit upon the Proofs made here, where only the Witnesses are sworn; and therefore *Judgment here ought to be final*.

III. The *Petition* is no Answer to his Majesty's *Reference*, and we leave him in uncertainty, when he asks our Opinion; or desire the Royal Assent to *nothing*, if he hath no Title to be barr'd. If

IV. If the Commons should reject a *Bill* sent to them, they establish him a Peer, *by judging it injurious to barr him by Law*; and so would seem more tender of Peerage than our selves.

V. *Leave is ask'd of his Majesty to bring in a Bill*: when every Peer hath Right to do it, if he sees himself aggriev'd by a false Claim of Honour; and therefore several Lords have been admitted Parties against him upon former Hearings, and Judgment given for him by a Vote, *That he is not barr'd by the Fine of his Father*.

VI. It seems against common Right to barr any by Bill, *who claims a legal Title*; except Forfeiture be in the Case, and if so, there needs no Bill.

July 16.
1678. The Lord *Anglesey* Lord Privy-Seal reported, That the said Petition had been presented; to which his Majesty gave this Answer, *That he will take it into consideration*.

There does not appear to have been any further Proceedings relating to the Claim of *Robert*.

Anno
1684. **T**HE said *Robert* died, and left only one Son *John*, an Infant about five Years of Age.

Anno
1687. *George* Duke of *Buckingham* (who was the only surviving Son of the first mention'd *George* Earl of *Buckingham* and afterwards Duke) died without Issue Male.

Whereby the Limitation of the Titles of Baron of *Whaddon* Viscount *Villiers* and Earl of *Buckingham*, by the Letters Patents of the 5th of *January*, 14. *Jac. I.* determin'd, and the Grant of the Remainder thereof by the Letters Patent of 14th of *March*, 14. *Jac. I.* was to have taken Effect.

Dec. 15.
1699. The said *John Villiers* procured an *Exemplification* under the Great Seal of *England* of the Letters Patents of the 14th of *March*, 14. *Jac. I.*

Anno
1720. The said *John Villiers* petition'd his present Majesty; setting forth his Title (*as before set forth*) to the said several Honours; and that since he came to the Knowledge of his *Right*, he had applied to the Lord Chancellor for his Writt of Summons, who was scrupulous to grant it, upon the account that his Father's Claim lay *undetermin'd*. The Petitioner therefore pray'd, That his Majesty

jeſty would be pleas'd to take his Caſe into conſideration, that he might not be any longer kept out of his *Right*, and thereby be deprived of the means of ſhewing his *Duty* and *Fidelity* to his Maſteſty, and *Zeal* for his Service.

May 18.
1720. By the King's Command ſignified by the Right Honourable Earl *Stanhope* Principal Secretary of State, by his Letter the ſaid Petition was referr'd to Sir *Robert Raymond* the Attorney-general, to conſider the Petition, and report his Opinion what might be fitly done therein.

June 25.
1720. Sir *Robert Raymond* by his Report certified *the above Proceedings in the Lords Journal and the Facts above ſtated, and likewise the Letters Patents 14th March, 14. Jac. I.* the Exemplification whereof had been produced before him. And upon the whole Matter, ſince the Claim of the Petitioner's Father to the Titles of Baron of *Stoke* and Viſcount *Purbeck*, referr'd by King *Charles the Second* to the Houſe of Peers was not by them determin'd; and though there are ſuch Letters Patents granting the Titles of Baron of *Whaddon* Viſcount *Villiers* and Earl of *Buckingham*, to *John Viſcount Purbeck*, under whom the Petitioner claim'd as his great Grandſon; yet ſince the *former Queſtion* made by the Houſe of Lords and *undetermin'd*, may equally affect the Petitioner in his Claim to theſe *laſt* Titles; Therefore the Attorney-general was of Opinion, *That it would be fit for his Maſteſty to refer the Petition to the Conſideration of the Houſe of Peers.*

It does not appear that any further Proceedings were had upon the Petition of the ſaid *John Villiers*, and the Report of the Attorney-general.

Anno
1723. The ſaid *John Villiers* died without Iſſue Male.

Whereby the now Claimant *George Villiers*, Son and Heir of *Edward*, the *Second* Son of *Robert*, who was Son and Heir of *John Viſcount Purbeck*, claims the Titles of Baron of *Stoke*, Viſcount *Purbeck*, Baron of *Whaddon*, Viſcount *Villiers*, and Earl of *Buckingham*.

F I N I S.

